

EXHIBIT 3

From: [Gadeir Abbas](#)
To: [Roth, Dena M. \(CIV\)](#); [Carolyn Homer](#); [Lena F. Masri, Esq.](#); [Powell, Amy \(CIV\)](#)
Cc: [Konkoly, Antonia \(CIV\)](#); [Healy, Christopher \(CIV\)](#)
Subject: Re: Elhady - order on ORI list
Date: Monday, February 25, 2019 11:02:59 AM

Amy - we stridently oppose your plan to ex parte communicate with the Court. File a motion. That's the standard procedure to bring disputes to the court's attention.

I will respond after carefully reviewing the email but it looks like, improbably, we are really close to being fully on the same page. The note issue is the area of disagreement that persists.

File a motion. It'll be a very narrow dispute. We will respond to your filed motion right away. My flight has been delayed (on the runway in Chicago still!) so we have until 1 pm est for the start time.

From: Powell, Amy (CIV) <Amy.Powell@usdoj.gov>
Sent: Monday, February 25, 2019 9:53:18 AM
To: Roth, Dena M. (CIV); Gadeir Abbas; Carolyn Homer; Lena F. Masri, Esq.
Cc: Konkoly, Antonia (CIV); Healy, Christopher (CIV)
Subject: RE: Elhady - order on ORI list

Gadier –

Thanks for talking earlier. I wanted to recap the conversation for our records and update you on our next steps.

First, you indicated that you were not agreeing to call the court or to any protective order and that you expect to be able to view the list. You also indicated Plaintiffs' understanding that there would be no copying, recording or picture-taking of the list, that the information will be treated as attorneys-eyes-only and cannot be shared outside that group. You want to be able to google the names while reviewing, but agreed to do that on our computer. You also agreed that if it becomes necessary any such information would be filed under seal with the court and not on the docket. (We likely would need an additional court order re: sealing but we could work that out later or just file a motion). We agreed to take that back to the clients for discussion, along with our point of disagreement (discussed below).

If this goes forward, we would insist at a minimum that you send an email agreeing with my recitation of these restrictions. I assume you can do that now? We understand Plaintiffs to agree that:

- Only Plaintiffs counsel (bar-admitted attorneys who have made an appearance) will be permitted to view the list. And only those attorneys may have access to any information taken from the list. It may not be shared otherwise.
- Counsel agrees not to record, copy, or photograph the list, by any means whatsoever.
- The Government will provide access to a computer so that you can conduct internet searches of the names. Plaintiffs' counsel will not do so on their own computers.
- Use is limited only to this litigation.

- If Plaintiffs wish to rely on the information gleaned in this litigation, any such information must be filed under seal.

This significantly narrows our area of disagreement. Our primary point of disagreement is that you also want to be able to take notes, including some writing down of specific entities' names. We take the position, however, that any writing down of the names is copying and is not permitted by the Court order. I think this is a narrow disagreement about the intent of the judge's order and we should seek clarification now. Accordingly, we intend to call the court at around 11:30 to ask for a telephonic conference on this issue. (We continue to think the parties should propose a protective order describing use in litigation and seeking authorization to file under seal, but we can largely handle that by separate motions practice). Please let us know before 11:30 if you want to join the call. Absent hearing from you soon, we will represent that we understand plaintiffs oppose such a conference.

Amy Elizabeth Powell
Trial Attorney, Federal Programs Branch
Civil Division, Department of Justice
310 New Bern Avenue, Suite 800
Federal Building
Raleigh, NC 27601-1461
Phone: 919-856-4013
Email: amy.powell@usdoj.gov

From: Roth, Dena M. (CIV) <droth@CIV.USDOJ.GOV>
Sent: Monday, February 25, 2019 8:35 AM
To: Gadeir Abbas <gAbbas@cair.com>; Powell, Amy (CIV) <apowell@CIV.USDOJ.GOV>; Carolyn Homer <cHomer@cair.com>; Lena F. Masri, Esq. <lmMasri@cair.com>
Cc: Konkoly, Antonia (CIV) <ankonkol@CIV.USDOJ.GOV>; Healy, Christopher (CIV) <chhealy@CIV.USDOJ.GOV>
Subject: RE: Elhady - order on ORI list

Gadeir – we will call you at 9am.

Dena

From: Gadeir Abbas <gAbbas@cair.com>
Sent: Monday, February 25, 2019 8:10 AM
To: Powell, Amy (CIV) <apowell@CIV.USDOJ.GOV>; Roth, Dena M. (CIV) <droth@CIV.USDOJ.GOV>; Carolyn Homer <cHomer@cair.com>; Lena F. Masri, Esq. <lmMasri@cair.com>
Cc: Konkoly, Antonia (CIV) <ankonkol@CIV.USDOJ.GOV>; Healy, Christopher (CIV) <chhealy@CIV.USDOJ.GOV>
Subject: Re: Elhady - order on ORI list

Amy - can we meet and confer by phone at 8:30? I think a path forward might be to discuss

things amongst ourselves first.

Gadeir Abbas, Esq.
Senior Litigation Attorney

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From: Powell, Amy (CIV) <Amy.Powell@usdoj.gov>
Sent: Monday, February 25, 2019 6:22:02 AM
To: Gadeir Abbas; Roth, Dena M. (CIV); Carolyn Homer; Lena F. Masri, Esq.
Cc: Konkoly, Antonia (CIV); Healy, Christopher (CIV)
Subject: Re: Elhady - order on ORI list

Gadeir - I'm afraid we need an answer to the question. And if you do not agree, we need to set up a time to call chambers. How is 9am?

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Gadeir Abbas <gAbbas@cair.com>
Date: 2/25/19 6:58 AM (GMT-05:00)
To: "Roth, Dena M. (CIV)" <droth@CIV.USDOJ.GOV>, Carolyn Homer <cHomer@cair.com>, "Lena F. Masri, Esq." <lmagri@cair.com>
Cc: "Powell, Amy (CIV)" <apowell@CIV.USDOJ.GOV>, "Konkoly, Antonia (CIV)" <ankonkol@CIV.USDOJ.GOV>, "Healy, Christopher (CIV)" <chhealy@CIV.USDOJ.GOV>
Subject: Re: Elhady - order on ORI list

Dena - that's fine if 10 am is too early. I appreciate that there is a lot to manage on your end. Let's do noon, instead.

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Senior Litigation Attorney

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From: Roth, Dena M. (CIV) <Dena.M.Roth@usdoj.gov>
Sent: Sunday, February 24, 2019 8:46:18 PM
To: Gadeir Abbas; Carolyn Homer; Lena F. Masri, Esq.
Cc: Powell, Amy (CIV); Konkoly, Antonia (CIV); Healy, Christopher (CIV)
Subject: Re: Elhady - order on ORI list

Gadeir - we would like a clear response in writing that you, Lena and Carolyn will not attempt to copy, recreate, type or write the names of the entities on the list. Otherwise, we think it will be necessary to place a call to chambers at 10 a.m. to clarify that point with the court.

Also, assuming the viewing proceeds without a call to the court, we may not be ready at 10a but we will do our best to make you comfortable in the meantime. We should also plan to confer further on the issue of how the information may be used in litigation, as we've noted that is an area we may need to resolve through motions practice.

Thanks,
Dena

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Gadeir Abbas <gAbbas@cair.com>
Date: 2/24/19 9:20 PM (GMT-05:00)
To: Carolyn Homer <cHomer@cair.com>, "Lena F. Masri, Esq." <lmagri@cair.com>, "Roth, Dena M. (CIV)" <droth@CIV.USDOJ.GOV>
Cc: "Powell, Amy (CIV)" <apowell@CIV.USDOJ.GOV>, "Konkoly, Antonia (CIV)" <ankonkol@CIV.USDOJ.GOV>, "Healy, Christopher (CIV)" <chhealy@CIV.USDOJ.GOV>
Subject: Re: Elhady - order on ORI list

Dena,

Based on these emails, I have booked travel and land in DC tomorrow morning at 8:30 am est. I will view the list tomorrow morning. I look forward to seeing whoever will be responsible for giving me the private entities list at 10 am est tomorrow morning at 1100 L street, NW.

By beginning in the morning, if you decide to motion and the court responds tomorrow, I can have time with the list after the court weighs in as well as before.

Carolyn and Lena will view the list on Wednesday. Thank you for working with us on this, and we think this puts us in a position to bring issues to the court's attention based on our review.

I expect to spend much of the day with the list. There are 1,441 entities on the list, so there will be a lot to process. Of course, I could be wrong, though we expect to be surprised.

We don't see any need to bring things to the court's attention at this time. We're going to comply with the terms of Judge Anderson's order.

If you all disagree, file a motion.

Regards,

Gadeir Abbas, Esq.
Senior Litigation Attorney

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From: Gadeir Abbas

Sent: Sunday, February 24, 2019 5:05:41 PM

To: Carolyn Homer; Lena F. Masri, Esq.; Roth, Dena M. (CIV)

Cc: Powell, Amy (CIV); Konkoly, Antonia (CIV); Healy, Christopher (CIV)

Subject: Re: Elhady - order on ORI list

We are considering and will get back to you.

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From: Roth, Dena M. (CIV) <Dena.M.Roth@usdoj.gov>

Sent: Sunday, February 24, 2019 2:20:48 PM

To: Gadeir Abbas; Carolyn Homer; Lena F. Masri, Esq.

Cc: Powell, Amy (CIV); Konkoly, Antonia (CIV); Healy, Christopher (CIV)

Subject: RE: Elhady - order on ORI list

Gadeir – we think the court was extremely clear from the bench and in the written order about a single viewing on Monday, as well as no copying of the names of the entities on the list. We appreciate that your team has other commitments and is spread out geographically. If you want to pick another day other than Monday for all 3 of you to come, we would be open to that; if there is not one day all 3 of you can come, we would be open to allowing whoever cannot make it on the same day as the rest of your team to come another day (but not the same attorneys coming multiples times, and with the understanding that the current MSJ schedule still stands).

Please confirm in your response whether you will agree to the proposal I set forth in my prior message (which I've highlighted below), and what time you are available to make a joint call to Judge Anderson's chambers tomorrow morning.

Thanks,
Dena

From: Gadeir Abbas <gAbbas@cair.com>

Sent: Sunday, February 24, 2019 2:22 PM

To: Roth, Dena M. (CIV) <droth@CIV.USDOJ.GOV>; Carolyn Homer <cHomer@cair.com>; Lena F. Masri, Esq. <lmagri@cair.com>

Cc: Powell, Amy (CIV) <apowell@CIV.USDOJ.GOV>; Konkoly, Antonia (CIV) <ankonkol@CIV.USDOJ.GOV>; Healy, Christopher (CIV) <chhealy@CIV.USDOJ.GOV>

Subject: Re: Elhady - order on ORI list

Dena,

We're really far apart on so many things, though the court's orders were really clear. I think he'd be even more upset than he was on Friday to hear from you all if we're unable to resolve this amongst ourselves.

To begin with, we appreciate you indicating that FBI personnel will be on hand to answer some questions that may arise. We think that'll help us narrow the scope of possible disputes.

And now on to the disagreements: there really are so many. What we won't negotiate away is our ability to create attorney work product while we're with the list. That is our work product and privileged. Its contents are subject to the terms Judge Anderson ordered.

Perhaps the most fundamental disagreement, however, is about the number of times you all have to make the list available to us. This seems like a very resolvable part of our disagreements. While we think we're entitled to see it as much as we'd like this week, in the interests of resolving this part of our dispute, we're willing to agree to three substantial blocks

of time with the list on three separate days this week. This will allow all of Plaintiffs' attorneys time with the list, separately or in subgroups or altogether.

Please remember that Lena lives in Michigan and I live in Chicago. Our team also has a federal court hearing in Detroit on Tuesday. It regards other illegal things your clients are doing!

This private entity list--which we didn't know existed up until very recently--is long, with names of companies that we likely won't just know. We need to study the list, think about the list, and revisit it in order to really understand its implications for Plaintiffs' claims.

We're also expecting to be surprised. We'll need time to process what will likely be brand new information which might be the opposite of how the watchlisting system has been described by the government previously in discovery.

We'd propose Monday, Wednesday, and Thursday afternoon during which either or all Lena, Carolyn, and I will be able to view the list. Can we at least agree to that?

Regards,

Gadeir Abbas, Esq.
Senior Litigation Attorney

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From: Roth, Dena M. (CIV) <Dena.M.Roth@usdoj.gov>

Sent: Sunday, February 24, 2019 12:27:09 PM

To: Gadeir Abbas; Carolyn Homer; Lena F. Masri, Esq.

Cc: Powell, Amy (CIV); Konkoly, Antonia (CIV); Healy, Christopher (CIV)

Subject: RE: Elhady - order on ORI list

Gadeir –

It appears that we have very different understandings of Judge Anderson's order. On our memory, he specifically said "no notes," but even if he did not use those words, he was abundantly clear that there is to be no copying of the list, either in full or in part, and that there would be a single viewing (on Monday). Our understanding is that the viewing is to serve as an opportunity for plaintiffs to

assure themselves that the entities on the list are indeed as we have represented them to be. We will not consent to note taking of the entity names or to multiple viewings. We are prepared to have FBI personnel available to us to answer any questions you may have about specific entries.

While we are still considering our options, our tentative proposal is to make the list available to you for a single viewing tomorrow afternoon in our offices at 1100 L St NW, and provided that you do not attempt to copy, recreate, type or write the names of the entities on the list in any manner. To the extent you disagree with those terms, we would propose a joint call to chambers at 9 am tomorrow morning.

Finally, it appears we also have different understandings of what Judge Anderson meant by "use in the litigation." We can continue to discuss those issues but suspect we may need to bring them to the court as well. We think those issues are appropriate for resolution on written motions, and can be worked out after the viewing – but note for now that by going forward with any viewing tomorrow, we do not consent to the understanding you have articulated in your email.

Thanks,
Dena

From: Gadeir Abbas <gAbbas@cair.com>
Sent: Sunday, February 24, 2019 1:11 PM
To: Roth, Dena M. (CIV) <droth@CIV.USDOJ.GOV>; Carolyn Homer <cHomer@cair.com>; Lena F. Masri, Esq. <lmMasri@cair.com>
Cc: Powell, Amy (CIV) <apowell@CIV.USDOJ.GOV>; Konkoly, Antonia (CIV) <ankonkol@CIV.USDOJ.GOV>; Healy, Christopher (CIV) <chhealy@CIV.USDOJ.GOV>
Subject: Re: Elhady - order on ORI list

Dena,

We have not gotten a response from you.

We expect full compliance with Judge Anderson's order, which requires access to the list of private entities beginning tomorrow. Lena, Carolyn, and/or I want access to the list beginning tomorrow. We expect a copy for each of us to view while we're at the government building.

If you do not intend to give us access to the list tomorrow, please advise so we can bring that to the court's attention.

We also have not heard back from you on our proposal to preschedule some meet-and-confer calls. We have not heard from you about other times, in addition to Monday, during which we'll be able to view the list.

Regards,

Gadeir Abbas, Esq.
Senior Litigation Attorney

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From: Gadeir Abbas
Sent: Saturday, February 23, 2019 12:39 PM
To: Roth, Dena M. (CIV); Carolyn Homer; Lena F. Masri, Esq.
Cc: Powell, Amy (CIV); Konkoly, Antonia (CIV); Healy, Christopher (CIV)
Subject: Re: Elhady - order on ORI list

No. Plaintiffs agree to abide by the terms set by Judge Anderson, not by the ones you all made up.

We're going to be spending a lot of time with the list. We'd like to view it on multiple days this week. We plan on creating work product while we're with the document, so we will have with us all the tools needed to create attorney work product. Of course, the work product that we create and that we take with us will only be for the purpose of litigating this case.

The judge ordered us to handle the material in a very specific manner. We'll do exactly as Judge Anderson ordered.

We also believe that your forthcoming supplement is an opportunity to address issues that will arise when we review the private list. We're anticipating being alarmed once we see it. Perhaps we can set up meet and confers this week on Monday, Wednesday, and Friday?

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From: Gadeir Abbas

Sent: Friday, February 22, 2019 4:39:32 PM

To: Roth, Dena M. (CIV); Carolyn Homer; Lena F. Masri, Esq.

Cc: Powell, Amy (CIV); Konkoly, Antonia (CIV); Healy, Christopher (CIV)

Subject: Re: Elhady - order on ORI list

Thanks Dena.

We'll get back to you tomorrow after we've had a chance to consider your proposal. But we agree that it is important for the parties to establish clear expectations.

Gadeir Abbas, Esq.

Senior Litigation Attorney

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From: Roth, Dena M. (CIV) <Dena.M.Roth@usdoj.gov>

Sent: Friday, February 22, 2019 4:36:52 PM

To: Gadeir Abbas; Carolyn Homer; Lena F. Masri, Esq.

Cc: Powell, Amy (CIV); Konkoly, Antonia (CIV); Healy, Christopher (CIV)

Subject: Elhady - order on ORI list

Gadeir –

In light of the Magistrate's order that the ORI List be restricted to viewing by Plaintiffs' counsel of record, with no copies permissible, we thought it would be useful for both parties to clarify the scope of that verbal protective order and how plaintiffs' counsel may use the information gleaned. We were hoping we could just agree on some language to propose to the Court. Here's a draft – we're happy to discuss but we would love to get this on the docket ASAP for the Court's consideration.

Re: logistics – please advise if you are able to come to our offices at 1100 L Street NW in the afternoon on Monday, who will be coming, and what times work best for you.

(I will be offline the rest of the day today through tomorrow, so please reply all to the group)

Dena

Dena M. Roth
Trial Attorney
U.S. Department of Justice
Civil Division, Federal Programs Branch
Ph: 202-514-5108
dena.m.roth@usdoj.gov